

**THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:	)	
	)	
Epicurean Experience Corp.	)	License No.: 81362
t/a Epicurean Experience	)	Case No.: 10-CMP-00708
	)	Order No.: 2012-086
Holder of a Caterer's License	)	
at premises	)	
1900 Tremont Street, S.E.	)	
Washington, D.C. 20020	)	

**BEFORE:** Nick Alberti, Interim Chairperson  
Donald Brooks, Member  
Herman Jones, Member  
Calvin Nophlin, Member  
Mike Silverstein, Member

**ALSO PRESENT:** Epicurean Experience Corp., t/a Epicurean Experience, Respondent

Kano Hudson, on behalf of the Respondent

Louise Phillips, Assistant Attorney General,  
on behalf of the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDER**

Epicurean Experience Corp., t/a Epicurean Experience, (Respondent) appeared before the Alcoholic Beverage Control Board (Board) for a Show Cause Status Hearing for Case Number 10-CMP-00708 on June 22, 2011, and acknowledged receiving the Notice of Status Hearing and Show Cause Hearing (Notice), dated April 20, 2011. *Transcript (Tr.)*, June 22, 2011 at 3. The Notice charged the Respondent with the following violations, which if proven true would justify the imposition of a fine, suspension, or revocation of the Respondent's ABC-license under District of Columbia Official Code § 25-823 and Chapter 8 of the District of Columbia Municipal Regulations:

- Charge I: On Friday, October 29, 2010, the Respondent failed to maintain the service of alcohol as incidental to the preparation and service of food for customers at an event in violation of 23 DCMR § 2000.
- Charge II: On Friday, October 30, 2010, the Respondent failed to maintain the service of alcohol as incidental to the preparation and service of food for customers at an event in violation of 23 DCMR § 2000.
- Charge III: The Respondent failed to purchase alcoholic beverages from an appropriate retailer for a scheduled event that was to be attended by more than one hundred persons in violation of 23 DCMR § 2002.

The Board held the Show Cause Hearing regarding the charges on December 14, 2011.

At the beginning of the hearing, Kano Hudson requested a continuance in order to obtain counsel, which we denied, because the motion was untimely and not for good cause. *Tr.*, December 14, 2011 at 6, 12. Mr. Hudson previously had counsel but that attorney withdrew from the representation after the Show Cause Status Hearing on June 22, 2011. *Tr.*, 12/14/11 at 6. Mr. Hudson told the Board that he had contacted an attorney about the hearing on December 9, 2011. *Tr.*, 12/14/11 at 118. Nevertheless, the attorney told Mr. Hudson on December 13, 2011, that the attorney would be unable to appear at the hearing. *Tr.*, 12/14/11 at 118. Furthermore, we note that we have rescheduled the Show Cause Hearing several times. Originally, we scheduled the Show Cause Hearing for August 10, 2011, but later rescheduled the hearing for October 26, 2011. We, then, later rescheduled the hearing for December 14, 2011.

Under the Board's regulations, "A hearing scheduled before the Board shall not be delayed by motion for a continuance unless the motion is received in writing by the Board and the other parties six (6) calendar days before the scheduled hearing date . . ." 23 DCMR § 1705.1 (2008). Furthermore, "To be granted, the motion shall, in the opinion of the Board, set forth good and sufficient cause for the continuance." *Id.*

Under normal circumstances, the Board will accommodate a party's desire to obtain counsel. Yet, here, Mr. Hudson's Motion for Continuance was received on the day of the hearing in violation of § 1705.1. Furthermore, once Mr. Hudson's original counsel withdrew, he had sufficient time to obtain new counsel. *See Stern Equipment Co. v. Portell*, 116 A.2d 601, 602 (D.C. App. 1955) (The court did not abuse its discretion in denying the appellant's request for a continuance where "after discharging counsel on March 8, new counsel had not been secured by March 14.") As such, we found that the Motion for Continuance lacked good cause, and decided to go forward with the hearing. *Tr.*, 12/14/11 at 12.

The Board, having considered the evidence, the arguments of the parties, and all documents comprising the Board's official file, makes the following:

## FINDINGS OF FACT

1. The Respondent, Epicurean Experience, holds a Caterer's License. *ABRA Licensing File No. 81362*. The Alcoholic Beverage Regulation Administration (ABRA) received a complaint regarding events held under the name "Grey Goose Mansion" at 1808 Adams Mill Road, N.W., Washington, D.C. 20009.<sup>1</sup> *Transcript (Tr.)*, December 14, 2011 at 18. ABRA assigned Investigator Jabriel Shakoor to investigate the complaint. *Tr.* 12/14/11 at 18.

### I. October 29, 2010

2. Investigator Shakoor visited the Respondent's catered event held at 1808 Adams Mill Road, N.W., on the night of Friday, October 29, 2010, at approximately 10:30 p.m. and 12:30 a.m. *Tr.* 12/14/11 at 19-20, 49. The event sponsored by Grey Goose, and promoted by Black Entertainment Television (BET), featured performances by J. Cole, B.O.B., and a guest D.J. *Tr.* 12/14/11 at 19. Eric Clay and Adimu Colon organized the event, which was held on all three of the building's floors. *Tr.* 12/14/11 at 21, 55.

3. Investigator Shakoor described the event as having a "nightclub setting." *Tr.* 12/14/11 at 21, 25. In order to gain entrance, patrons were required to wait in line and purchase a ticket. *Tr.* 12/14/11 at 26, 31. Tables inside the premises were arranged for bottle service, and each floor had a bar. *Tr.* 12/14/11 at 31-32; *Exhibit Nos. 7, 8*.

4. Investigator Shakoor observed that the event only had a small area, on the third floor, dedicated to food service. *Tr.* 12/14/11 at 21-22, 26. The Respondent had sectioned off the food area for VIP patrons only, which only amounted to approximately fifty to sixty people in total. *Tr.* 12/14/11 at 21, 57; *Exhibit Nos. 10A, 11*. Nevertheless, the event featured a large crowd with over 500 patrons in attendance. *Case Report No. 10-CMP-00708*, 1; *Tr.* 12/14/11 at 40, 44, 57-58, 102.

### II. October 30, 2010

5. Investigator Shakoor visited a similar event held by the Respondent at the same location on Saturday, October 30, 2010. *Tr.* 12/14/11 at 25. The event had over 350 patrons in attendance. *Tr.* 12/14/11 at 57-58, 101. The establishment had bars on all floors. *Tr.* 12/14/11 at 26.

6. In addition, the event had the same food arrangement as the event on October 29, 2010; whereby, the Respondent only made food available to VIPs. *Tr.* 12/14/11 at 26. We do not credit Mr. Hudson's testimony that waiters were handing out hor d'oeuvres or that food was available based on Investigator Shakoor's observations of the event. *Tr.* 12/14/11 at 26, 70-71.

### III. Investigator Shakoor's Investigation

7. During Investigator's Shakoor investigation, he obtained a copy of the Respondent's drink menu for both events. *Tr.* 12/14/11 at 28. According to the Respondent's drink menu,

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<sup>1</sup> The Board takes administrative notice of the location's zip code.

cocktails were sold for \$15.00 and bottles of alcohol ranged anywhere from \$175.00 to \$300.00 at the events. *Exhibit No. 3*. Investigator Shakoor did not find a food menu available for the establishment's patrons. *Tr. 12/14/11 at 28*.

8. Investigator Shakoor also examined the advertising for the catered events held by the Respondent. *Tr. 12/14/11 at 29*. The advertisements indicated that the event offered alcohol service and entertainment, but did not mention food. *Exhibit Nos. 2, 4*.

9. Kano Hudson provided the Respondent's food and alcohol purchase receipts for the events on October 29, 2010, and October 30, 2010. *Tr. 12/14/11 at 24*. The receipts show that Mr. Hudson paid Washington Wholesalers, a District of Columbia wholesaler, \$20,652.07 for alcohol purchases. *Tr. 12/14/11 at 37*. The establishment bought \$729.11 worth of food-related purchases from Restaurant Depot. *10-CMP-00708, 1-2, Exhibit No. 14*.

10. The Respondent prepared the food for the artists, promoters, and Grey Goose and BET staff attending the event—a maximum of 80 people. *Tr. 12/14/11 at 67*. The Respondent prepared food from a food truck and had six staff members working on October 29, 2010, and October 30, 2010. *Tr. 12/14/11 at 67*. The Respondent provided the lighting, a stage, and bars for the event too. *Tr. 12/14/11 at 68*.

11. The Respondent noted that the food receipts submitted to Investigator Shakoor did not include the costs related to food preparation. *Tr. 12/14/11 at 67-69*. The Respondent received \$8,000.00 for the events on October 29, 2010, and October 30, 2010; specifically, the Respondent received \$7,000.00 for serving and preparing food and \$1,000.00 for alcohol related services. *Tr. 12/14/11 at 85*. The Respondent incurred \$5,500.00 in expenses related to the events on October 29, 2010, and October 30, 2010, but this figure does not include the cost of purchasing alcohol. *Tr. 12/14/11 at 97*.

## CONCLUSIONS OF LAW

12. The Board has the authority to suspend or revoke the license of a licensee who violates any provision of Title 25 of the District of Columbia Official Code pursuant to District of Columbia Official Code § 25-823(1). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. District of Columbia Official Code § 25-830; 23 DCMR § 800, *et seq.*

### I. Standard of Review

13. The Board based its factual findings on the substantial evidence contained in the record. 23 DCMR § 1718.3 (2008). The courts define substantial evidence as evidence that “reasonable minds might accept as adequate to support the [Board’s] conclusions.” 2641 Corp. v. District of Columbia Alcoholic Beverage Control Bd., 950 A.2d 50, 52 (D.C. 2008) citing Kopff v. District of Columbia Alcoholic Beverage Control Bd., 381 A.2d 1372, 1387 (D.C. 1977).

## II. Charges I and II

14. We find that the Respondent violated § 2000.1 on October 29, 2010, and October 30, 2010. Under § 2000.1, “A Caterer is a business entity engaged principally in the processing, preparation, and service of food products which it has prepared especially for the customer for an event, *and the service of alcoholic beverages is incidental to the food preparation and service.*” 23 DCMR § 2000.1 (emphasis added). Based on the definition of “incidental,” the service of alcoholic beverages must “have[] a minor role” at the event. Black’s Law Dictionary: Third Pocket Edition, 346 (3rd ed. 1996).

15. The Respondent’s failure to make food accessible to all of its patrons indicates that food preparation and service had an incidental role in both events. Here, the Respondent only prepared and served food for VIP attendees, which amounted to no more than 80 people at either of the events. Supra at ¶ 10. Nevertheless, over 500 people attended the event on October 29, 2010, and over 350 people attended the event on October 30, 2010. Supra, at ¶¶ 4-5. Under these circumstances, the record shows that the majority of the Respondent’s patrons did not have access to the food prepared by the Respondent.

16. In addition, it is clear that the Respondent created a *de facto* nightclub with its Caterer’s License on October 29, 2010, and October 30, 2010. The Respondent spent over \$20,000.00 purchasing alcoholic beverages, while spending less than \$1,000.00 on food-related purchases. Supra at ¶ 9. Further, the Respondent made a drink menu available to patrons, but not a food menu; did not include the availability of food as part of its advertisements; and set up the tables inside the premises for bottle service. Supra at ¶¶ 3, 7.

17. Therefore, for the reasons stated above, the Board finds that the Respondent, on October 29, 2010, and October 30, 2010, made the service of alcoholic beverages incidental to food preparation and service in violation of § 2000.1.

18. We, further, emphasize that the Caterer’s License does not give the holder a “blank check” to operate as a *de facto* nightclub. Establishments offering nightclub activities raise significant public safety issues. A nightclub has the potential to degrade a neighborhood’s quality of life by creating large, intoxicated crowds, noise, litter, traffic, and parking problems. See D.C. Code § 25-313(b)(1)-(4) (West Supp. 2011). The nightclub licensing process, which provides the community with an opportunity for notice and comment, mitigates these potential negative effects. See D.C. Code §§ 25-313, 25-421, 25-601 (West Supp. 2011). Consequently, caterers that create “nightclub-like” events that focus on alcoholic beverage service evade the nightclub licensing process, and unfairly take away the community’s ability to prevent such nuisances.

## III. Charge III

19. Finally, the Respondent violated § 2002.1 by purchasing alcohol from a wholesaler for events attended by over 100 people on October 29, 2010, and October 30, 2010. Under the law, a licensed caterer “shall not purchase alcoholic beverages from a Wholesaler other than for scheduled events to be attended by one hundred (100) persons or less.” 23 DCMR § 2002.1

(2008). Here, the Respondent purchased alcohol from Washington Wholesalers, a licensed wholesaler, for the events on October 29, 2010, and October 30, 2010, which had over 500 and 350 patrons in attendance respectively. Supra, at ¶¶ 4-5, 9. As a result, the violation of § 2002.1 is self-evident.

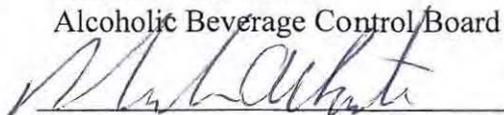
### **ORDER**

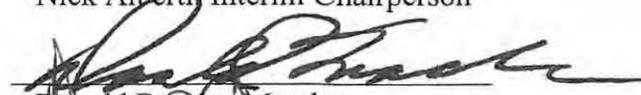
Based on the foregoing findings of fact and conclusions of law, the Board, on this 7th day of March 2012, finds that the Respondent, Epicurean Experience Corp., t/a Epicurean Experience, violated 23 DCMR §§ 2000.1 and 2002.1. The Board hereby **ORDERS** that:

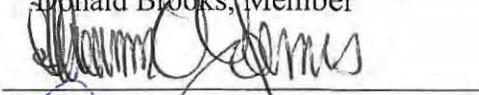
- (1) the Respondent shall pay a \$1,000.00 fine by no later than thirty (30) days from the date of this Order for the violation described in Charge I;
- (2) the Respondent shall pay a \$1,000.00 fine by no later than thirty (30) days from the date of this Order for the violation described in Charge II; and
- (3) the Respondent shall pay a \$1,000.00 fine by no later than thirty (30) days from the date of this Order for the violation described in Charge III.

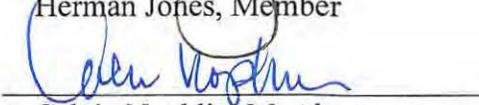
The Alcoholic Beverage Regulation Administration shall deliver copies of this Order to the Government and the Respondent.

District of Columbia  
Alcoholic Beverage Control Board

  
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Nick Alberti, Interim Chairperson

  
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Donald Brooks, Member

  
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Herman Jones, Member

  
\_\_\_\_\_  
Calvin Nophlin, Member

  
\_\_\_\_\_  
Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, Reeves Center, 2000 14th Street, N.W., 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 (April 2004) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b).